

ARKANSAS CODE ANNOTATED

CREDIT UNIONS

SUBCHAPTER.

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23-35-101. Definition and purpose of credit union or central credit union.

A credit union or central credit union is a cooperative nonprofit association, incorporated in accordance with the provisions of this chapter for the twofold purpose of encouraging thrift among its members and creating a source of credit at fair and reasonable rates of interest. A credit union or central credit union provides an opportunity for its members to use and control their own money in order to improve their economic and social condition.

23-35-102. Operation of central credit union.

- (a) A central credit union may be organized and operated as provided in this chapter.
- (b) A central credit union shall be designated by use of the term "central" in its official name. A credit union not conforming to the requirements for a central credit union shall not use the term "central" in its official name.
- (c) A central credit union shall be subject to all the provisions of this chapter. Specific provisions setting forth the operation of central credit unions shall take precedence over other provisions of this chapter if those specific provisions are inconsistent with other parts of this chapter.

23-35-103. Taxation.

A credit union shall be deemed an institution for savings and, together with all accumulations therein, shall not be subject to taxation except as to real estate owned. The shares of a credit union shall not be subject to a stock transfer tax when issued by the corporation or when transferred from one (1) member to another.

23-35-104. Insurance of accounts.

- (a) Each credit union organized under this chapter shall obtain insurance of member share and deposit accounts under the provisions of Title II of the Federal Credit Union Act.
- (b) A credit union which has been denied a commitment for insurance of its share and deposit accounts shall either dissolve or merge with another credit union which is insured under Title II of the Federal Credit Union Act.

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23-35-201. Credit Union Division - State Credit Union Supervisor - Staff.

There is created under the State Securities Department a Credit Union Division which shall be administered by the State Credit Union Supervisor. The Securities Commissioner of the state shall act as State Credit Union Supervisor. The supervisor shall appoint such assistants, secretaries, and examiners as may be necessary to assist in the performance of his duties under this chapter.

23-35-202. Authority of State Credit Union Supervisor - Rules and regulations.

- (a) All state-chartered credit unions shall be supervised and regulated by the State Credit Union Supervisor acting pursuant to the authority delegated by this chapter. The supervisor shall be responsible for the enforcement of this chapter and the credit union bylaws, and he shall have the authority to adopt rules and regulations governing credit unions in a manner consistent with this chapter and other statutes of Arkansas.
- (b) The State Credit Union Supervisor may, irrespective of any limitations in this chapter and subject to other Arkansas law, make reasonable rules authorizing a credit union to exercise any of the powers conferred upon a federally chartered credit union doing business in this state which is subject to the regulations of the National Credit Union Administration, if the supervisor finds that the exercise of power:
 - (1) Serves the public convenience and advantage; and

- (2) Equalizes and maintains the quality of competition between state-chartered credit unions and federally chartered credit unions. This includes, but is not limited to:
 - (A) The offering of the various types of accounts offered by federal credit unions;
 - (B) Designation of the legal relationships of an account holder;
 - (C) Adoption of any dividend paying date or other procedure or practice of paying dividends;
 - (D) Adoption of any business practice, procedure, method, or system authorized for federal credit unions;
 - (E) The making of any loan or investment that a federal credit union doing business in this state is authorized to make.

23-35-203. Annual examination of credit unions.

- (a) The State Credit Union Supervisor shall cause each credit union to be examined annually. Each credit union and all of its officers and agents shall be required to give representatives of the State Credit Union Supervisor full access to all books, papers, securities, records, and other sources of information under their control. For the purpose of the examination, the representative shall have power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.
- (b) A report of this examination shall be forwarded to the credit union after the completion of the examination. The report shall be reviewed at the next monthly meeting of the board of directors and a reply, if requested by the State Credit Union Supervisor, shall be forwarded by the board of directors by the date requested by the State Credit Union Supervisor.
- (c) For the purpose of these examinations, each credit union shall pay an examination fee based upon the cost of performing the examination. Each credit union shall bear a proportionate share of the expenses of the State Credit Union Supervisor, in accordance with schedules adopted by the supervisor.
- (d) If there is any violation of this section by a credit union, the State Credit Union Supervisor may fine a credit union ten dollars (\$10.00) per day for ten (10) days. If the violation has not been corrected by the tenth day, he may take any action he deems necessary and appropriate under the provisions of this chapter.

23-35-204. Reports - Penalty for failure to file.

- (a) Credit unions subject to the provisions of this chapter shall report to the State Credit Union Supervisor annually, on or before February 1, on forms supplied by him for that purpose. Additional reports may be required by the State Credit Union Supervisor, as is deemed necessary.
- (b)
 - (1) If any report remains in arrears for more than fifteen (15) days, a fine of five dollars (\$5.00) for each day the report remains in arrears shall be levied against the offending credit union.
 - (2) If the report is not returned within thirty (30) days of the due date, the State Credit Union Supervisor may, after written notice to the president of the credit union of his intention to do so, suspend or revoke the certificate of approval, take possession of the business and property of the credit union, and order its dissolution in accordance with § 23-35-704.

23-35-205. Annual supervision fee.

Each credit union subject to the provisions of this chapter shall pay an annual supervision fee which shall be determined by the State Credit Union Supervisor. The fees must be reasonably related to the administrative cost of supervisory services required under this chapter and shall be determined after notice and an opportunity to be heard is given to the credit unions affected.

SUBCHAPTER 3 - ORGANIZATION

SECTION.

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23-35-301. Procedure for obtaining charter.

- (a) Any seven (7) or more residents of the State of Arkansas, of legal age, who have a common bond referred to in § 23-35-401 may organize a credit union and become charter members thereof by:
 - (1) Executing duplicate copies of the articles of incorporation, which shall state:

- (A) The name, which shall include the words "credit union" and which shall be different from the name of any other existing credit union, and the town or city wherein the proposed credit union is to have its principal place of business;
 - (B) The term of existence of the credit union, which shall be perpetual;
 - (C) The par value of the shares of the credit union, which shall be in one (1) class of five dollars (\$5.00) multiples of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00);
 - (D) The names and addresses of the subscribers to the articles of incorporation, and the number of shares subscribed by each;
 - (E) That the credit union shall have the power to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated;
- (2) Preparing and adopting duplicate copies of bylaws for the general government of the credit union, consistent with the provisions of this chapter;
 - (3) Forwarding the required charter fee, the articles of incorporation, and the bylaws to the State Credit Union Supervisor.
- (b) (1) The State Credit Union Supervisor shall have the authority to investigate the application for charter to determine whether the proposed credit union meets the objectives of this chapter.
 - (2) The determination for the approval of the application for charter shall be under such rules and regulations as shall be adopted by the State Credit Union Supervisor. These rules and regulations shall give account to the number of potential members, their stability of employment or membership in the association comprising the common bond of membership, and the economic characteristics of the proposed common bond.
 - (3) If the State Credit Union Supervisor determines that the proposed credit union does not meet these objectives, the charter application shall be denied. If the fee, articles of incorporation, and bylaws conform to the statute, he shall issue a certificate of approval of the articles and return a copy of the bylaws and the articles to the applicant, which shall be preserved in the permanent files of the credit union.

- (c) The determination for the approval of the application for charter of a central credit union shall be made by the State Credit Union Supervisor after an investigation as to the need for the credit union and upon satisfying himself that the objectives of this chapter are met.
- (d) The subscribers for a credit union charter shall not transact any business until formal approval of the charter has been received.
- (e) In order to simplify the organization of credit unions, the State Credit Union Supervisor shall cause to be prepared a form of articles of incorporation and a form of bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance.
- (f) The minimum paid-in capital with which a credit union may begin business shall not be less than five thousand dollars (\$5,000).
- (g) The State Credit Union Supervisor shall determine that a firm commitment to insure share and deposit accounts has been issued under the provisions of Title II of the Federal Credit Union Act before a charter application can be issued.

23-35-302. Amendments to articles of incorporation and bylaws.

- (a) The articles of incorporation and the bylaws may be amended as provided in the bylaws.
- (b)
 - (1) Amendments to the articles of incorporation and to the bylaws shall be submitted in writing to the State Credit Union Supervisor.
 - (2) Amendments shall become effective upon approval in writing by the State Credit Union Supervisor and payment of the appropriate fee to the appropriate state agency.

23-35-303. Board of directors and committees generally.

- (a) The business affairs of the credit union shall be managed by a board of directors of not less than five (5) directors, a credit committee of not less than three (3) members, and a supervisory committee of not less than three (3) members, all to be elected at the annual members' meeting by and from the members.
- (b) All members of the board of directors and of the committees shall hold office for such terms as the bylaws may provide.

23-35-304. Duties of board of directors.

- (a) The board of directors shall be responsible for general management of the affairs, funds, and records of the credit union and shall meet as often as necessary, but not less than once each month.
- (b) The board of directors shall:
 - (1) Act upon applications for membership, or appoint and authorize an executive committee or a membership officer from among the members of the credit union, other than the treasurer, an assistant treasurer, or a loan officer, to approve applications for membership under such conditions as the board may prescribe. The committee or membership officer so authorized shall submit to the board, at each monthly meeting, a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require. The membership officer shall not have the authority to disapprove any application for membership;
 - (2) Purchase a blanket fidelity bond covering the officers, employees, members of official committees, attorneys at law, and other agents, with protection against loss caused by dishonesty, burglary, robbery, larceny, theft, holdup, forgery, alteration of instruments, misplacement or mysterious disappearance, and for faithful performance of duty, and, if applicable, building insurance, liability insurance, and such other insurance as is necessary for the operation and the protection of the credit union and its members. The State Credit Union Supervisor shall prescribe in his rules and regulations the amount of minimum bond coverage required for all credit unions according to their asset categories;
 - (3) Determine the rate of interest, consistent with the provisions of this chapter, which shall be charged on loans; the rate of interest refund, if any, to be paid to borrowing members; the qualifications for participation, and the manner of computation and payment. The interest rebates are to be paid from the credit balance of the retained earnings account;
 - (4) Declare dividends as provided by this chapter;
 - (5) Limit the number of shares which may be owned by a member, not to exceed the maximum amount insured under Title II of the Federal Credit Union Act;

- (6) Fill vacancies, occurring between annual meetings, in the board of directors, credit committee, and supervisory committee until the election, or appointment and qualification, of successors;
- (7) Determine the maximum amount, both secured and unsecured, which may be loaned to any one (1) member;
- (8) Have charge of the investment of surplus funds of the credit union as provided by this chapter;
- (9) Authorize the employment of such persons as may be necessary to carry on the business of the credit union and determine the compensation of employees and the treasurer;
- (10) Authorize the conveyance of property;
- (11) Borrow or lend money to carry on the functions of the credit union;
- (12) Perform such other duties as the members may require;
- (13) Designate depositories for the funds of the credit union;
- (14) Suspend any or all members of the credit and supervisory committees for failure to perform their duties upon unanimous approval by the board of directors;
- (15) Establish and provide for compensation of loan officers appointed by the credit committee and compensation of auditing assistance required by the supervisory committee;
- (16) Suspend any officer, director, or committee member from his official position for failure to attend three (3) consecutive regular meetings without cause or for otherwise failing to perform any of the duties required of him as an official but only after he has been given reasonable notice of a meeting for suspension and an opportunity to be heard on the charges;
- (17) Perform or authorize any action consistent with this chapter not specifically reserved for the members by the bylaws or this chapter.

23-35-305. Officers - Selection, term, and oath.

- (a) Within ten (10) days following the organization meeting and each annual meeting, the directors shall elect from their own number a chief executive officer who may be designated as chairman or president of the board, vice chairman or vice-president, a treasurer, and a secretary, of whom the last two (2) may be the same individual. The board of directors may employ an officer in charge of operations whose title shall be either president or general manager, or in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to be in active charge of the affairs of the credit union.
- (b) Within ten (10) days after the election or appointment to any position, each person so elected or appointed shall execute an oath of office by which he agrees to accept and to diligently and faithfully carry out the duties and responsibilities of the position to which he has been elected or appointed and not to negligently or willfully violate, or permit to be violated, any provision of this chapter or the bylaws of the credit union.
- (c) The president and secretary shall execute a certificate of election which shall set forth the names and addresses of the officers, directors, and committee members elected or appointed.
- (d) The oath of office and the certificates of election shall be executed on forms prepared by the Credit Union Division, and one (1) copy of each shall be filed with the division within twenty (20) days after the election or appointment.
- (e) The terms of the officers shall be for one (1) year or until their successors are chosen and have been duly qualified.

23-35-306. Credit Committee - Loan officers.

- (a)
 - (1) The credit committee shall be responsible for general supervision of all loans to members.
 - (2) The credit committee shall not be composed of any person who is a member of the board of directors or of the supervisory committee.
 - (3) It shall be the duty of the credit committee to review all applications for loans to ascertain whether the loans would be for a provident and productive purpose and would benefit the applicant, to determine whether the security offered is sufficient, and to determine whether the terms of the application are proper.

- (4) The credit committee shall meet as often as may be required, after due notice has been given to each member thereof, but not less than once a month. The credit committee shall keep a record of all meetings and shall make a report to the members at the annual meeting.
- (b)
 - (1) The credit committee may appoint one (1) or more loan officers to act under the supervision of the credit committee, and these loan officers may make loans without the necessity for a meeting of, or approval by, any members of the credit committee
 - (2) No more than one (1) member of the credit committee may serve in the position of loan officer.
 - (3) No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as loan officer.
 - (4) Each loan officer shall, within ten (10) days of the filing of each loan application received by him from another member or by referral from another officer, furnish to the credit committee a full report of the application.
- (c) All applications for loans not approved by a loan officer shall be considered and acted upon by the credit committee.

23-35-307. Supervisory committee.

- (a) The supervisory committee shall make or cause to be made, at least annually:
 - (1) An examination of the affairs of the credit union, including an audit of its books;
 - (2) A report of its annual examination to the board of directors; and
 - (3) An audit, a report of which shall be submitted to members at the next annual meeting of the credit union.
- (b) The supervisory committee shall cause the passbooks and accounts of the members to be verified with the records of the treasurer at least once a year. The term "passbook" shall include any book, statement of accounts, or other pertinent or related record.
- (c) The supervisory committee may suspend, by a unanimous vote, any officer of the credit union or any member of the credit committee, or of the board of directors, until the next members' meeting, which shall not be less than seven (7) days nor more than fourteen (14) days after the suspension. At the meeting, the suspension shall be acted upon by the members.

- (d) The supervisory committee may call, by a majority vote, a special meeting of the members to consider any violation of this chapter, the charter, the bylaws, or any practice of the credit union deemed by the committee to be unsafe or unauthorized.
- (e) Any member of the supervisory committee may be suspended by the board of directors, upon majority vote. The members shall decide, at a meeting held not less than seven (7) days nor more than fourteen (14) days after the suspension, whether the suspended committee member shall be removed from or restored to the supervisory committee.

23-35-308 Compensation of officers, directors, committee members, and employees.

- (a) No officer, director or committee member, other than the treasurer who the board has specifically appointed or contracted to actively work in the credit union, may be compensated, directly or indirectly, for his services as such. This shall not be construed to prevent reimbursement of directors and committee members for actual expenses they may incur in carrying out the duties of their office.
- (b) The compensation to be paid to the treasurer and to the employees who are authorized by the board shall be established by the board at their monthly meetings or in the annual budget allocations.

SUBCHAPTER 4 - MEMBERSHIP

SECTION.

- 23-35-401. Membership requirements.
- 23-35-402. Nonliability of members.
- 23-35-403. Meetings - Voting.
- 23-35-404. Expulsion of members.

23-35-401. Membership requirements.

- (a) The membership of a credit union shall be limited to and consist of the subscribers to the articles of incorporation and such other persons, having the common bond set forth in the bylaws as have been admitted as members, have paid the entrance fee as provided in the bylaws, have prescribed and paid for one (1) or more shares, and have complied with such other requirements as the articles of incorporation and bylaws may specify.

- (b) (1) Credit union organizations, other than central credit unions, shall be limited to:
 - (A) Groups having a common bond of occupation;
 - (B) Associations;
 - (C) Residents within a well-defined neighborhood, community, or rural district;
 - (D) Employees of a common employer, or an affiliate of a subsidiary of a common employer;
 - (E) Members of a bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organization; and
 - (F) (i) Members of the immediate family of such persons.
 - (ii) "Members of the immediate family" shall include the wife, husband, children, parents, grandparents, and grandchildren of a member.
- (2) Societies and associations composed of individuals who are eligible for membership may be admitted to membership in the same manner and under the same conditions as individuals but may not borrow in excess of their shareholdings.
- (c) Membership in credit unions organized as central credit unions shall be limited to:
 - (1) Credit unions organized under this chapter and federally chartered credit unions located in Arkansas.
 - (2) A member of a credit union organized under this chapter or a federally chartered credit union located in Arkansas, if the credit union of which he is a member agrees to such membership and will provide an affidavit that at the time the member applies for membership in a central credit union the member has:
 - (A) Reached the loan limit at his own credit union, and the credit union of which he is a member will substantiate in writing the member's loan credibility under such rules and forms as the supervisor shall prescribe; or
 - (B) Reached the maximum share limit at his own credit union; or

- (C) Reached the maximum share limit at his own credit union which is covered by life savings insurance, and the central credit union also provides life savings insurance;
- (3) With the approval of the State Credit Union Supervisor, employees of an employer with insufficient employees to form and conduct the affairs of a separate credit union and persons in the field of membership of liquidating credit unions and the immediate families of those persons.
 - (A) In making his determination under this subsection, the State Credit Union Supervisor may disregard the common bond requirements of this chapter if he finds that the affiliation would benefit the members and be consistent with the purposes of this chapter;
 - (B) If the membership of a liquidating credit union is seeking to merge with a central credit union under the provisions of subdivision (c)(3) of this section, all provisions of § 23-35-701 shall apply except for the common bond requirements;
 - (C) Each employer or liquidating credit union whose employees or members are approved as members of a central credit union shall be specifically named in the common bond section of the bylaws;
- (4) Employees of the credit union;
- (5) Current members of the credit union if it is converting to a central credit union; and
- (6) Employees of the Arkansas Credit Union League.

23-35-402. Nonliability of members.

The members of the credit union shall not be personally or individually liable for the payment of debts of the credit union.

23-35-403. Meetings - Voting.

- (a) The annual meeting and special meetings shall be held at the time, place, and in the manner indicated in the bylaws.
- (b) At all meetings each member shall have but one (1) vote, irrespective of his shareholdings. No member may vote by proxy, but a society or association having membership in the corporation may be represented and vote by one (1) of its members or shareholders, providing that person has been duly authorized by the governing board of the society or association.

23-35-404. Expulsion of members.

- (a) A member of a credit union may be expelled by the board of directors, but only after he has been given an opportunity to be heard regarding the purpose of the expulsion. A written notice of this hearing, setting forth the time, place, and date for the meeting, shall be forwarded to the member by the board of directors together with the charges which serve as the basis for the expulsion.
- (b) The member may be expelled for:
 - (1) Failure to meet the conditions of his membership;
 - (2) Failure to carry out his obligations to the credit union;
 - (3) Conviction of a felony;
 - (4) Neglect or refusal to comply with the laws and bylaws under which the credit union operates;
 - (5) Habitual neglect to pay obligations;
 - (6) Insolvency; or
 - (7) Bankruptcy.
- (c) If the board votes to expel the member, he shall remain liable for any sums owed to the credit union for loans or other purposes.
- (d) The credit union may require sixty (60) days' written notice to withdraw shares or deposits by the member, as funds become available.

SUBCHAPTER 5 - SHARES

SECTION.

- 23-35-501. Shares generally - Liens on shares.
- 23-35-502. Shares in name of minor.
- 23-35-503. Shares issued in trust.
- 23-35-504. Joint tenancy in shares and accounts.

23-35-501. Shares generally - Liens on shares.

- (a) A "share" is a term applied to each five dollars (\$5.00), but not more than twenty-five dollars (\$25.00), standing to the share account of a member.
- (b) The shares of stock of a credit union shall all be common shares of one (1) class and shall have a par value of five dollar (\$5.00) multiples of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) per share.

- (c) No certificate shall be issued to denote ownership of a share in a credit union.
- (d) Shares may be subscribed, paid for, and transferred in such manner as the bylaws may prescribe.
- (e) The credit union shall have and may exercise a lien on the shares of any member for any sum due the credit union from the member or for any loan endorsed by him.
- (f) When the share balance of a member is reduced to less than one (1) fully paid share by the member's action and remains below that amount for a period of one (1) year or longer after the member has received actual notice of that fact, it may be absorbed by a late or service charge upon authorization of the board.

23-35-502. Shares in name of minor.

- (a) Shares may be issued in the name of a minor, if permitted by the articles of incorporation; these shares may be withdrawn by the minor, and payments made on the withdrawals shall be valid.
- (b) No minor under sixteen (16) years of age shall be entitled to vote in the meetings of the members either personally or through his parent or guardian, nor may he become a director or committee member until he shall have reached legal age.

23-35-503. Shares issued in trust.

- (a) Shares may be issued in the name of a member in trust for a beneficiary, including a minor, but no beneficiary, unless a member in his own right, may be permitted to vote, obtain loans, hold office, or be required to pay an entrance fee.
- (b) Payment of part or all of the shares issued in trust to the member shall, to the extent of the payment, discharge the liability of the credit union to the member and the beneficiary, and the credit union shall be under no obligation to see the application of the payment.
- (c) In the event of the death of the member, and if shares are so issued or held and the credit union has been given no other written evidence of the existence or terms of any trust, the shares and any dividends or interest thereon shall be paid to the beneficiary.

23-35-504. Joint tenancy in shares and accounts.

A member may designate any person to hold shares and thrift club accounts with him in joint tenancy with the right of survivorship, but no joint tenant, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office. Payment of part or all of the joint accounts to any of the joint tenants shall, to the extent of the payment, discharge the liability to all.

SUBCHAPTER 6 - OPERATION

SECTION.

- 23-35-601. Powers generally.
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- 23-35-603. Loans and extensions of credit in advance.
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- 23-35-609. Fiscal year.
- 23-35-610. Establishment of subsidiary offices.
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23-35-601. Powers generally.

A credit union shall have power to:

- (1) Make contracts;
- (2) Sue and be sued in the name of the credit union;
- (3) Adopt and use a common seal and alter it at pleasure;
- (4) Purchase, hold, and dispose of property necessary or incidental to its operations;
- (5) Require the payment of an entrance or membership fee by any applicant admitted to membership;
- (6) Receive from its members payments on shares, which shall include the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within the membership;
- (7) Lend its funds to its members as provided in this Chapter;
- (8) Purchase insurance on the lives of its members in an amount equal to their respective share and loan balances or any or all of them;

- (9) Borrow from any source in an aggregate amount not exceeding sixty percent (60%) of the share balances;
- (10) Invest surplus funds as provided in this chapter;
- (11) Make deposits in checking or similar type of accounts in state chartered and federally chartered banks, savings and loan associations, savings banks, and credit unions, which accounts are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration;
- (12) Hold membership in other credit unions organized under this chapter or other acts, in the Arkansas Credit Union League, and in other organizations composed of credit unions;
- (13) Declare dividends as provided in this chapter;
- (14) Impress a lien upon the shares and accumulation of dividends and interest of any member to the extent of any loans made to him directly or indirectly, or on which he is surety, and for any dues or charges payable by him;
- (15) Change its place of business in Arkansas with written notice to the State Credit Union Supervisor;
- (16) Exercise the powers granted corporations organized under the laws of Arkansas and such additional incidental powers as may be necessary or requisite to enable it to promote and effectively carry on its purposes.

23-35-602. Christmas and other thrift clubs.

Christmas clubs, vacation clubs, and other thrift clubs, if provided for the use of members, shall be operated in accordance with such rules and regulations as the board of directors may prescribe.

23-35-603. Loans and extensions of credit in advance.

- (a) A credit union may loan to members for a provident or productive purpose and upon such security as the bylaws may provide and as the credit committee or loan office shall approve.
- (b)
 - (1) No loan shall bear an interest rate to exceed the highest lawful rate permitted under the Constitution of the State of Arkansas.
 - (2) No credit union shall charge the borrower anything of value in connection or in association with the loan, other than repayment of the unpaid principal balance and interest. However, on loans secured by real estate a credit union may charge a loan origination fee not to exceed three percent (3%) of the original principal balance of the loan. A borrower may

be charged for the cost of appraisals and credit investigations. If permitted by the bylaws, the borrowing members may be charged for the cost of the filing fees on security instruments in connection with the transaction.

- (c) Every application for a loan shall be made upon a form, which the credit committee has prescribed and the board of directors has approved, which shall state at least the purpose for which the loan is desired, the security, if any, offered, the amount of the loan being applied for, and any other information which may be required to determine the financial ability of the applicant to repay the loan.
- (d) Every loan shall be evidenced by a written instrument.
- (e)
 - (1) No unsecured loan shall be made to any member in an aggregate amount in excess of three thousand dollars (\$3,000).
 - (2) No secured loan shall be made to any member in an aggregate amount in excess of ten percent (10%) of the credit union's total assets.
 - (3) No loan shall be made to any member if, in the aggregate, the balances of the secured and unsecured loans outstanding to that member exceed ten percent (10%) of the total assets of the credit union.
 - (4) Secured and unsecured loans made against joint accounts shall be included in the aggregate and shall not be allocated to each tenant in determining the loan amounts set forth in this subsection.
 - (5) If the State Credit Union Supervisor in his discretion determines that the ten percent (10%) limit as set out in this subsection is operating to the detriment of a credit union, he may by rule or order reduce the ten percent (10%) limit.
- (f)
 - (1) No loan shall be made unless it has been approved by a loan officer or has received approval of a majority of the members of the credit committee in conformity with the other provisions of this chapter.

- (2) A loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds six thousand dollars (\$6,000) plus pledged shares shall be approved by a majority of the credit committee and a majority of the board members present. No member of the board or the credit committee may take part in the consideration of his loan application.
- (g) (1) Loans may be granted to members of the credit union, secured by a first or second mortgage on real estate. The aggregate of the loans shall not exceed eighty percent (80%) of the market value of the real estate which is set forth in an appraisal prepared by an independent qualified real estate appraiser. The loans shall also provide for substantially equal monthly payments for insurance premiums and taxes assessed against the security. The total outstanding balance of all first mortgage loans on real estate shall not exceed thirty percent (30%) of the outstanding shares of the credit union.
- (2) For purposes of this subsection and applicable rules:
 - (A) "Appraisal" means an objective estimate of value based upon a physical examination and evaluation which shall disclose the market value of the security offered by use of the market sales approach which shall be supported by an analysis of comparable properties in the immediate area. The market value shall also be supported by use of the cost and income appraisal methods if conditions warrant and shall include documentation of the purchase price of the property offered as security;
 - (B) "Market value" means the highest price which real property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus;
 - (C) "Independent qualified real estate appraiser" means a person who is experienced in the appraisal of the type of real estate being offered as security, who is actively engaged in real estate appraisal work and whose qualifications are demonstrated by membership in a national professional appraisal organization, or who is licensed to appraise in the state in which the real estate is located, or who is acceptable as an appraiser by an insuring or guaranteeing agency of the federal or state government and who has no present or contemplated future interest in the property being appraised.
- (h) (1) A credit union may make any loan insured by any federal program on terms set out in the applicable federal legislation, and that insurance shall be deemed adequate security.

- (2) (A) In addition to generally accepted types of security, the endorsement of a note by a guarantor or assignment of shares or wages, in a manner consistent with the laws of Arkansas, shall be deemed security within the meaning of this chapter.
 - (B) For purposes of this subsection and applicable rules a "guarantor" means one who enters into an enforceable guaranty agreement and provides current financial statements showing a net worth free of homestead and subject to execution in an amount at least equal to the amount of the loan.
 - (C) The guaranty agreement and the financial statements must be presented to the credit committee of the credit union for consideration and then placed in the file of the borrower.
- (3) The adequacy of all securities shall be within the determination of the credit committee or loan officer, subject to the provisions of this chapter and the bylaws.
- (i) A member may receive a loan in installments or in one (1) sum, and he may pay the whole or any part of this loan on any day in which the credit union office is open for business.
- (j) The credit committee may approve an extension of credit in advance, upon its own motion or upon application by a member, and loans may be granted to the member within the limits of the extension of credit. Where an extension of credit has been approved, applications for loans need no further consideration as long as the aggregated obligation does not exceed the limits of the extension of credit. The credit committee shall review all extensions of credit at least once a year, and any extension of credit shall expire if the member becomes more than ninety (90) days delinquent in his obligations to the credit union.
- (k) No director, member of the credit or supervisory audit committee, or credit union employee shall cosign, endorse, or act as a guarantor for any borrower from the credit union.

23-35-604. Investment of funds.

Funds not used in loans to members may be invested:

- (1) In capital shares, obligations, or preferred stock issues of any agency or association, organized either as a stock company, mutual association, or membership corporation, provided that the membership or stockholdings, as the case may be, of the agency or association are confined or restricted to credit unions or organizations of credit unions and provided that the purposes for which the agency or association is organized are designed to service or otherwise assist credit union operations;
- (2) In obligations of the State of Arkansas or any subdivision thereof;
- (3) In obligations of the United States or securities fully guaranteed as to principal and interest thereby;
- (4) In shares of a cooperative society organized under local or national cooperative laws, in an amount not exceeding ten percent (10%) of the shares and surplus of the credit union;
- (5) In any investment legal for fiduciaries, savings banks, or trust companies in Arkansas;
- (6) In loans to other credit unions in an amount not to exceed thirty-three and one-third percent (33 1/3%) of the shares and unimpaired surplus of the lending credit union;
- (7) In an aggregate amount not exceeding twenty-five percent (25%) of the allocations to the reserve fund, in any agency or association of the type described in subdivision (1) of this section, provided the purposes of any such agency or association are designed to assist in establishing and maintaining liquidity, solvency, and security in credit union operations.

23-35-605. Reserves.

- (a) At the end of each accounting period, the gross income shall be determined. From this amount, there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in regulations prescribed under this chapter, sums in accordance with the following schedule:

- (1) A credit union in operation for more than four (4) years and having assets of five hundred thousand dollars (\$500,000) or more shall set aside:
 - (A) Ten percent (10%) of gross income until the regular reserve shall equal four percent (4%) of the total of outstanding loans and risk assets; then
 - (B) Five percent (5%) of gross income until the regular reserve shall equal six percent (6%) of the total of outstanding loans and risk assets;
 - (2) A credit union in operation less than four (4) years or having assets of less than five hundred thousand dollars (\$500,000) shall set aside ten percent (10%) of gross income until the regular reserve shall equal seven and one-half percent (7 1/2%) of the total of outstanding loans and risk assets;
 - (3) Whenever the regular reserve falls below the stated percent of the total of outstanding loans and risk assets, it shall be replenished by the regular contributions in such amounts as may be needed to maintain the stated reserve goals.
- (b) The State Credit Union Supervisor may decrease the reserve requirement set forth in subsection (a) of this section when, in his opinion, a decrease is necessary or desirable. The supervisor may also require special reserves to protect the interest of members either by regulation or for an individual credit union in any special case.
 - (c) The reserve fund shall belong to the credit union and shall be used to meet all losses from uncollectable loans and shall not be distributed except on liquidation of the credit union or in accordance with a plan approved or ordered by the State Credit Union Supervisor.

23-35-606. Inability to contact members - Transfer of funds to reserves.

- (a) (1) If a credit union is unable to contact a member, beneficiary, or other person by first class mail at the last address shown on the records of the credit union, and if such inability continues for a period of more than three (3) years, then all shares, accounts, dividends, interest, and other sums due to or standing in the name of the member, beneficiary, or other person may, by action of the board of directors, be credited to accounts payable and thereafter no dividends or interest will accrue thereto.
 - (2) The member shall have the right to reclaim any such sums by proper judicial proceedings commenced within an additional four (4) years after the action by the board of directors.
- (b) This section shall not apply to shares, accounts, dividends, interest, and other sums due to or standing in the name of two (2) or more persons unless the credit

union is unable to contact any of those persons in the manner and during the period specified in this section.

- (c) Nothing contained in this section shall exempt a credit union from the Arkansas Uniform Unclaimed Property Act, § 18-28-201 et seq.

23-35-607. Dividends.

- (a) At such intervals as the board of directors may authorize, and after provision for required reserves, the board may declare, pursuant to such regulations as may be issued by the State Credit Union Supervisor, a dividend to be paid at different rates on different types of shares and at different rates and maturity dates in the case of share certificates.
- (b)
 - (1) Dividend credit may be accrued on various types of shares and share certificates as authorized by the board of directors.
 - (2) Dividend credit for a month may be accrued on shares which are or become fully paid up during the first fifteen (15) days of that month.
 - (3) No dividends shall be paid on shares which are withdrawn during the dividend period.
- (c) No dividend shall be declared or paid at a time when the credit union is insolvent, or when the payments thereof would render the credit union insolvent.
 - (1) Insolvency shall be determined by the State Credit Union Supervisor to have occurred when:
 - (A) A credit union cannot meet its obligations as they come due in the normal course of business; or
 - (B) Considering the credit union's assets and liabilities, the net recoverable assets, if made immediately available, would not be sufficient to discharge the credit union's obligations to its creditors and members.
 - (2) As used in this subsection, "net recoverable assets" means all assets of the credit union as reflected in a balance sheet which has been prepared using generally accepted accounting principles less the following:
 - (A) Any uncollectable or unrecoverable assets;

- (B) Ten percent (10%) of the unpaid balances of all loans delinquent more than two (2) months but less than six (6) months, twenty-five percent (25%) of the unpaid balances of all loans delinquent from six (6) months to less than twelve (12) months, eighty percent (80%) of the unpaid balances of loans delinquent twelve (12) months but not less than sixteen (16) months and one hundred percent (100%) of the unpaid balances of all loans delinquent sixteen (16) months or more.
- (d) Each individual who has met the requirements for membership shall be entitled to and paid a dividend on his fully paid shares as declared by the board of directors.

23-35-608. Reduction of assets.

When the losses of a credit union resulting from a depreciation in value of its loans or investments or otherwise exceed its undivided earnings and reserve fund so that the estimated value of its assets is less than the total amount due the shareholders, the credit union may, by a majority vote of the entire membership, order a reduction in the shares of each of its shareholders to divide the loss proportionately among the members. If thereafter the credit union shall realize from its assets a greater amount than was fixed by the order of reduction, the excess shall be divided among the shareholders whose assets were reduced, but only to the extent of the reduction.

23-35-609. Fiscal year.

The fiscal year of all credit unions subject to the provisions of this chapter shall end on December 31.

23-35-610. Establishment of subsidiary offices.

- (a) A credit union shall have the power to establish offices at locations other than its main office if the maintenance of those offices is reasonably necessary to furnish services to its membership. No additional offices shall be established to serve persons who are not entitled to membership, as defined in the common bond provision of the articles of incorporation, and who would not be entitled to services of the credit union at its main office.
- (b) All books of account shall be maintained at the main office of the credit union.
- (c) The State Credit Union Supervisor shall grant prior written approval for the establishment of subsidiary offices. He shall have the authority to issue notice and hold a public hearing to determine if the establishment of the subsidiary office of offices is necessary and in the best interests of the credit union.

23-35-611. Records.

- (a) All credit union records shall be kept for a period of five (5) years from the date of making them or from the date of the last entry thereon.
- (b) No credit union shall be required to make receipt for payment except as may be provided in the bylaws, nor shall it be necessary to endorse a note showing date of payments or balance due.

SUBCHAPTER 7 - MERGER, CONVERSION, OR DISSOLUTION

SECTION.

- 23-35-701. Merger.
- 23-35-702. Conversion to or from federal credit union.
- 23-35-703. Voluntary dissolution.
- 23-35-704. Suspension of operations - Involuntary liquidation.
- 23-35-705. Procedure for liquidation or dissolution.

23-35-701. Merger.

- (a) Any credit union other than a central credit union may, with the approval of the State Credit Union Supervisor, merge with any other credit union under the existing charter of the other credit union, pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger and approved by the affirmative vote of a majority of the members of each credit union present at the meetings of members duly called for that purpose. The State Credit Union Supervisor may waive the common bond requirement of this chapter for merging credit unions if he determines that good cause has been shown for waiving the requirement and that the merger is consistent with the purposes of this chapter.
- (b) (1) After agreement by the directors and approval by the members of each credit union, the president and secretary of each credit union shall execute a certificate of merger, which shall set forth all of the following:
 - (A) The time and place of the meeting of the board of directors at which the plan was agreed upon;
 - (B) The vote in favor of adoption of the plan;
 - (C) A copy of the resolution or other action by which the plan was agreed upon;
 - (D) The time and place of the meeting of the members at which the plan agreed upon was approved;

- (E) The vote by which the plan was approved by the members;
 - (F) Such other provisions as set by rule or order of the State Credit Union Supervisor.
- (2) The certificates and a copy of the plan of merger agreed upon shall be forwarded to the State Credit Union Supervisor and, if approved, returned to the merging credit unions.
- (c) Upon any such merger so effected, all property, property rights, and interests of the merged credit union shall vest in the surviving credit union without deed, endorsement, or other instrument of transfer. All debts, obligations, and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union under whose charter the merger was effected.
- (d) This section shall be construed, whenever possible, to permit a credit union chartered under any other act to merge with one subject to the provisions of this chapter.

23-35-702. Conversion to or from federal credit union.

The State Credit Union Supervisor shall issue regulations to permit the conversion of a credit union operating under this chapter to a federal credit union and the conversion of a federal credit union to a credit union operating under this chapter.

23-35-703. Voluntary dissolution.

A credit union may elect to dissolve voluntarily and wind up its affairs in the following manner:

- (1) The board shall adopt a resolution recommending that the credit union be dissolved voluntarily and directing that the question of dissolution be submitted to a regular or special meeting of the members;
- (2) After the adoption of the resolution to voluntarily dissolve, no receipt shall be accepted nor withdrawals permitted from its share or deposit accounts, nor shall any loans be made nor any dividends declared nor paid pending final determination by its membership on the voluntary dissolution;

- (3) At a meeting called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, provided a notice of the meeting was mailed to the members of the credit union at least ten (10) days prior thereto. Any member not present at the meeting may, within the next twenty (20) days, vote in favor of dissolution by signing a statement in a form approved by the State Credit Union Supervisor, and the vote shall have the same force and effect as if cast at the meeting;
- (4) The credit union shall thereupon immediately cease to do business, except for the purpose of liquidation;
- (5) The president and secretary shall, within five (5) days following the meeting, notify the State Credit Union Supervisor of intention to liquidate and shall include a list of the names and addresses of the directors and officers of the credit union.

23-35-704. Suspension of operations - Involuntary liquidation.

- (a) If it shall appear that any credit union is bankrupt or insolvent, that it has willfully violated any of the provisions of this chapter, or that it is operating in an unsafe or unsound manner, the State Credit Union Supervisor shall issue an order temporarily suspending the credit union's operations. The board of directors shall be given notice by registered mail of the suspension, which notice shall include a list of the reasons for the suspension and list of the specific violations of this chapter.
- (b) Upon receipt of the suspension notice, the credit union shall immediately cease all operations.
- (c) The directors of the credit union shall then file a reply to the suspension notice with the State Credit Union Supervisor within fifteen (15) days. They may request a hearing to present a plan of corrective actions proposed if they desire to continue operations, or they may request that the credit union be declared insolvent and that a liquidating agent be appointed.
- (d)
 - (1) If the credit union fails to answer the suspension notice or request a hearing, the State Credit Union Supervisor may then revoke the credit union's charter, appoint a liquidating agent, and liquidate the credit union in accordance with § 23-35-705.
 - (2) If the State Credit Union Supervisor, after issuing notice of suspension and providing opportunity for a hearing, rejects the credit union's plan to continue operations, the supervisor may issue a notice of involuntary liquidation and appoint a liquidating agent.
 - (A) The credit union may request a stay of execution of this action by appealing to the circuit court of the jurisdiction in which the credit union is located.

- (B) Involuntary liquidation may not be ordered prior to following the suspension procedures outlined in this section.

23-35-705. Procedure for liquidation or dissolution.

- (a) The credit union shall continue in existence for the purposes of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business, and it may sue and be sued for the purpose of enforcing its debts and obligations until its affairs are fully adjusted.
- (b) The board of directors, or in the case of involuntary dissolution the liquidating agent, shall, after applying each member's share or deposit account against any loan or debt owed the credit union by that member, use the assets of the credit union to pay:
 - (1) Expenses incidental to liquidation including any surety bond that may be required;
 - (2) Any liability due nonmembers;
 - (3) Savings club accounts as provided in this chapter.
- (c) Assets then remaining shall be distributed to the members proportionately to the shares held by each member as of the date dissolution was voted or ordered.
- (d) As soon as the board or liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, they shall execute a certificate of dissolution on a form prescribed by the State Credit Union Supervisor and file the certificate with him.
- (e) The credit union shall be subject to examination by the State Credit Union Supervisor in accordance with its schedule.

SUBCHAPTER 8 - PROHIBITED PRACTICES

SECTION.

- 23-35-801. Misleading conduct or use of words "credit union".
- 23-35-802. Commission or compensation for sale of shares, grant of loans, etc.
- 23-35-803. Prohibited actions by officers, directors, agents, etc.
- 23-35-804. Compensation of directors or committee members.
- 23-35-805. False reports about credit union.

23-35-801. Misleading conduct or use of words "credit union".

- (a) It is unlawful for any person, corporation, copartnership, or association, except a credit union subject to the provisions of this chapter or the Federal Credit Union Act, to:
 - (1) Use a name or title containing the words "credit union" or any derivation thereof;
 - (2) Represent themselves in their advertising as a credit union; or
 - (3) Otherwise conduct business as a credit union.
- (b) Any person who willfully violates this section shall be guilty of a felony and upon conviction shall be fined not more than five hundred dollars (\$500) or imprisoned in the state penitentiary for not more than five (5) years, or both, and may be permanently enjoined from such conduct.
- (c) The State Credit Union Supervisor may institute and prosecute actions in his own name in the circuit court of any county having jurisdiction to seek any judicial remedy necessary to enforce the provisions of this section.

23-35-802. Commission or compensation for sale of shares, grant of loans, etc.

No credit union shall pay or receive any commission or compensation for securing members, for the sale of its shares, or for the granting of loans to its members or to other credit unions except for loan origination fees which are specifically provided for in § 23-35-603.

23-35-803. Prohibited actions by officers, directors, agents, etc.

- (a) (1) It is unlawful for any officer, director, committee member, agent, employee, or loan officer of a credit union to permit a loan to be made to a nonmember or to participate in a loan to a nonmember.
- (2) It is unlawful for any corporation, officer, director, member, committee member, agent, employee, or loan officer of a credit union to receive, either directly or indirectly, the proceeds of a credit union loan made in the

name of another person, corporation, or credit union with the intent to avoid compliance with this chapter.

- (3) Any person who willfully violates this subsection shall be guilty of a misdemeanor and shall be primarily liable to the credit union for the amount thus illegally loaned.
- (4) The illegality of such a loan shall be no defense in any action of the credit union to recover on the loan.
- (b) It is unlawful for any officer, director, committee member, agent or employee of a credit union to make or subscribe to false entries or exhibit a false or fictitious paper, instrument, or security to a person authorized to examine the credit union books and records. Any person who willfully violates this subsection shall be guilty of a felony and upon conviction shall be fined not more than five hundred dollars (\$500) or imprisoned in the state penitentiary for not more than two (2) years, or both.
- (c) It is unlawful for any officer, director, committee member, agent or employee of a credit union to receive payments on shares knowing the credit union is insolvent. Any person who willfully violates this subsection shall be guilty of a felony and upon conviction shall be fined not more than five thousand (\$5,000) or imprisoned in the state penitentiary for not more than ten (10) years, or both.

23-35-804. Compensation of directors or committee members.

- (a) With the exception of the treasurer, who the board has specifically appointed or contracted to actually work in the credit union, no director or member of a credit committee or supervisory committee may receive compensation for performing the duties or responsibilities of the board or committee position to which the person was elected or appointed.
- (b) For purposes of this section, the term "compensation" specifically excludes reasonable and proper costs incurred by or on behalf of an official whether on a reimbursement basis or paid directly by the credit union in carrying out the responsibilities of the position.

23-35-805. False reports about credit union.

- (a) It is unlawful for any person, firm, corporation, or association to spread false reports about the management or finances of any credit union.
- (b) Any person who willfully violates this section shall be guilty of a felony and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or shall be imprisoned in the state penitentiary for not less than thirty (30) days nor more than two (2) years, or both.